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April 28, 2020

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Hon. J. Paul Oetken
Thurgood Marshall
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

RE: Hines v. Roc-a-Fella Records Inc. et al
DOCKET NO. 1:19-cv-04587-JPO

Dear Hon Judge Oetken:

This office is counsel to the Plaintiff in this action. Plaintiff intends to file a Motion for Reconsideration of the Court's Order dated April 16, 2020 (Docket Entry 94). Plaintiff is unclear upon review of the Individual Part Rules if a pre-motion conference is necessary for a Motion for Reconsideration. Plaintiff intends to seek relief from Docket Entry 94 which conditions the continuation of this litigation against defendants Shawn Carter ("Carter") and Timothy Mosely ("Mosley") on payments to be made to the Record Labels. The recent order issued on December 5, 2019 by Judge Castel in *Guity v. Santos*, No. 18-cv-10387 (PKC (Docket Entry 63)) indicates that unserved parties can be dismissed without prejudice in a copyright matter. Plaintiff would seek to have Docket Entry 94 reconsidered and remove the Record Label payment as a condition the Plaintiff must satisfy in order to move forward against Carter and Mosely. Plaintiff may also seek to add additional defendants.

Plaintiff need not seek a pre-motion conference prior to filing a motion for reconsideration. The Court cautions, however, that the Opinion and Order dated April 16, 2020 (Dkt. No. 94) does not permit Plaintiff to proceed further against Defendants Shawn Carter and Timothy Mosely in this particular action. Although a dismissal for insufficient service of process is "without prejudice," Fed. R. Civ. P. 4(m), the ninety-day clock for service of process has lapsed, and "[t]he filing of an amended complaint . . . does not restart the [ninety] day clock for service under Rule 4(m)." *Sikhs for Justice v. Nath*, 893 F. Supp. 2d 598, 607 (S.D.N.Y. 2012). Accordingly, if Plaintiff wishes to press his claims against Carter or Mosely, he must file a new lawsuit.

So ordered.

April 30, 2020



J. PAUL OETKEN
United States District Judge